

**BEFORE THE DIRECTOR
DEPARTMENT OF CONSUMER AFFAIRS
BUREAU OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
STATE OF CALIFORNIA**

In the Matter of the Accusation and Petition to
Revoke Probation Filed Against:

Case No.: 6807

NAPOLEON GONZALES
307 N. 11th Avenue
Upland, CA 91786

**DEFAULT DECISION
AND ORDER**

Vocational Nurse License No. VN 219593

Respondent.

Napoleon Gonzales ("Respondent") was served Accusation and Petition to Revoke Probation No. 6807; Statement to Respondent; Notice of Defense form; copies of Government Code sections 11507.5, 11507.6 and 11507.7; and Request for Discovery by both first class and certified mail on October 8, 2008 at his address of record as provided in sections 11503 and 11505 of the Government Code of the State of California.

Respondent failed to file a Notice of Defense within the time specified in Government Code section 11506.

The Bureau of Vocational Nursing and Psychiatric Technicians ("Bureau") has determined that Respondent has waived his rights to a hearing to contest the merits of the Accusation and Petition to Revoke Probation and that the Bureau will take action on the Accusation and Petition to Revoke Probation without a hearing, pursuant to Government Code section 11520.

The Bureau makes the following findings of fact:

FINDINGS OF FACT

1. Teresa Bello-Jones, J.D., M.S.N., R.N., made and filed the Accusation and Petition to Revoke Probation solely in her capacity as the Bureau's Executive Officer.
2. On March 20, 2006, the Bureau issued Vocational Nurse License Number VN 219593 to Respondent. Said license will expire on September 30, 2009, unless renewed.
3. Pursuant to Business and Professions Code sections 101.1(b) and 150, the Department of Consumer Affairs has succeeded to and is vested with all duties, powers, purposes,

responsibilities and jurisdiction not otherwise repealed or made inoperative of the Bureau and its executive officer; that the department is under the control of the Director of Consumer Affairs.

4. Pursuant to Business and Professions Code section 2875, the Bureau may discipline any licensed vocational nurse for any reason provided in Article 3 of the Vocational Nursing Practice Act.

5. Pursuant to Business and Professions Code section 118(b), the expiration of a license shall not deprive the Bureau of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued, or reinstated. Under Business and Professions Code section 2892.1, the Bureau may renew an expired license at any time within four years after the expiration.

6. Respondent has subjected his license to discipline under Business and Professions Code section 2878(a)(4) in that Respondent mistreated or abused an eighty-one year old stroke patient, as described in Accusation and Petition to Revoke Probation No. 6807, a copy of which is attached as Exhibit "1" and incorporated by reference.

7. Respondent has subjected his license to discipline under Business and Professions Code section 2878(k) in that Respondent committed an act punishable as a sex-related crime that is substantially related to the qualifications, functions or duties of a licensed vocational nurse, as described in Accusation and Petition to Revoke Probation No. 6807.

8. Respondent has subjected his license to discipline under Business and Professions Code sections 2878(a) and 2878(d) in that Respondent violated Code section 726 (sexual relations with a patient), as described in Accusation and Petition to Revoke Probation No. 6807.

9. Respondent has subjected his license to discipline under Business and Professions Code sections 490, 493, and 2878(f) in that Respondent sustained criminal convictions that are substantially related to his qualifications as a licensed vocational nurse, as described in Accusation and Petition to Revoke Probation No. 6807.

10. Respondent has subjected his probation to revocation in that Respondent failed to comply with the terms and conditions of the Probation Program established by the Bureau. Respondent failed to comply with probation terms #1, #2, #5, #8, #12, and #13, as described in

1 Accusation and Petition to Revoke Probation No. 6807.

2 **DETERMINATION OF ISSUES**

3 Based on the foregoing Findings of Fact, Respondent has subjected his license to
4 discipline under Business and Professions Code sections 490, 493, 2878(a), 2878(a)(4), 2878(d),
5 2878(f), and 2878(k); and subjected his probation to revocation for failure to comply with the terms
6 and conditions of the Probation Program established by the Bureau.

7 **LOCATION OF RECORD**

8 The record on which this Default Decision is based is located at the Sacramento
9 office of the Bureau of Vocational Nursing and Psychiatric Technicians.

10 **ORDER**

11 **WHEREFORE**, the Bureau of Vocational Nursing and Psychiatric Technicians
12 makes the following order:


13 Vocational Nurse License Number VN 219593 authorizing Respondent to act as a
14 vocational nurse is hereby revoked.

15 Respondent shall have the right to petition for reinstatement of the aforesaid license
16 pursuant to the provision of section 2878.7(a)(1) of the Business and Professions Code.

17 Respondent shall not be deprived of making any further showing by way of
18 mitigation; however, such showing must be made directly to the Bureau of Vocational Nursing and
19 Psychiatric Technicians, 2535 Capitol Oaks Drive, Suite 205, Sacramento, California, 95833 prior to
20 the effective date of this Decision.

21 This Default Decision shall become effective on February 4, 2009

22 Dated and signed December 23, 2008

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24 

25 PATRICIA HARRIS
26 Deputy Director, Board/Bureau Support
27 Department of Consumer Affairs

28 Attachments: Exhibit "1", Accusation and Petition to Revoke Probation No. 6807 and Declaration of Service

Exhibit "1"

Accusation and Petition to Revoke Probation No. 6807 and Declaration of Service

OCT 08 2008

**Board of Vocational Nursing
and Psychiatric Technicians**

EDMUND G. BROWN JR., Attorney General
of the State of California
MARC D. GREENBAUM
Supervising Deputy Attorney General
ANNE HUNTER, State Bar No. 136982
Deputy Attorney General
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 897-2114
Facsimile: (213) 897-2804

Attorneys for Complainant

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BUREAU OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
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In the Matter of the Accusation and Petition to
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Case No. 6807

NAPOLEON GONZALES AKA NAPOLEON
GONZALEZ AKA LEE GONZALES
307 N. 11th Avenue
Upland, CA 91786
Vocational Nurse License No. VN 219593

**ACCUSATION AND PETITION TO
REVOKE PROBATION**

Respondent.

Complainant alleges:

PARTIES

1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this
Accusation and Petition to Revoke Probation solely in her official capacity as the Executive
Officer of the Bureau of Vocational Nursing and Psychiatric Technicians, Department of
Consumer Affairs (Bureau).

1. Effective July 1, 2008, pursuant to Business and Professions Code sections 22, 101.1,
subdivision (b), and 150, the Department of Consumer Affairs succeeded to and became vested
with all duties, powers, purposes, responsibilities and jurisdiction not otherwise repealed or
made inoperative of the Bureau and its executive officer. The department is under the control
of the Director of Consumer Affairs.

2. On or about April 11, 2001, Napoleon Gonzales aka Napoleon Gonzalez aka Lee Gonzales (respondent) filed an application dated March 7, 2001, with the Board of Vocational Nursing and Psychiatric Technicians (Board) to obtain a Vocational Nurse License. On August 4, 2004, the Board denied respondent's application.

3. On June 30, 2005, Statement of Issues No. 6807 was filed before the Board. On September 13, 2005, respondent entered into a stipulated settlement of the disciplinary action whereby the Board would issue a license that would be immediately revoked, the revocation stayed and the license placed on three (3) years' probation. On October 28, 2005, the Board issued a decision and order, effective November 27, 2005, authorizing the issuance of such a probationary license to respondent once he had completed the necessary requirements for licensure. A copy of that decision, including the Statement of Issues filed on June 30, 2005, is attached as exhibit A and is incorporated herein by reference.

4. On or about March 20, 2006, the Board issued Vocational Nurse License Number VN 219593 to respondent. On the same date the license was immediately revoked; the revocation was stayed and the license was placed on probation for three (3) years subject to certain terms and conditions. The license was in effect at all times relevant to the charges brought herein and will expire on September 30, 2009, unless renewed.

JURISDICTION

5. This Accusation and Petition to Revoke Probation are brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

6. Section 2875 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline the holder of a vocational nurse license for any reason provided in Article 3 (commencing with section 2875) of the Vocational Nursing Practice Act.

7. Section 118, subdivision (b), of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board jurisdiction to proceed with a disciplinary

1 action during the period within which the license may be renewed, restored, reissued or
2 reinstated. Under section 2892.1 of the Code, the Board may renew an expired license at any
3 time within four years after the expiration.

4 8. Section 2878 of the Code provides in pertinent part:

5 "The Board may suspend or revoke a license issued under this chapter [the
6 Vocational Nursing Practice Act (Bus. & Prof. Code, 2840, et seq.)] for any of the following:

7 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

8 (1) Incompetence, or gross negligence in carrying out usual nursing functions.

9 "....

10 (4) The use of excessive force upon or the mistreatment or abuse of any patient.

11 For the purposes of this paragraph, 'excessive force' means force clearly in excess of that which
12 would normally be applied in similar clinical circumstances.

13 "....

14 "(d) Violating or attempting to violate, directly or indirectly, or assisting in or
15 abetting the violating of, or conspiring to violate any provision or term of this chapter.

16 "....

17 "(f) Conviction of a crime substantially related to the qualifications, functions,
18 and duties of a licensed vocational nurse, in which event the record of the conviction shall be
19 conclusive evidence of the conviction.

20 "....

21 "(k) The commission of any act punishable as a sexually related crime, if that act
22 is substantially related to the duties and functions of the licensee."

23 9. Code section 726 states, in pertinent part:

24 "The commission of any act of sexual abuse, misconduct, or relations with a
25 patient, client, or customer constitutes unprofessional conduct and grounds for disciplinary action
26 for any person licensed under this division [applicable to healing arts' licensees]."

27 10. Section 490 of the Code provides, in pertinent part, that the Board may

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1 suspend or revoke a license when it finds that the licensee has been convicted of a crime
2 substantially related to the qualifications, functions or duties of a licensed vocational nurse.

3 11. Section 493 of the Code provides:

4 "Notwithstanding any other provision of law, in a proceeding conducted by a
5 board within the department pursuant to law to deny an application for a license or to suspend or
6 revoke a license or otherwise take disciplinary action against a person who holds a license, upon
7 the ground that the applicant or the licensee has been convicted of a crime substantially related to
8 the qualifications, functions, and duties of the licensee in question, the record of conviction of the
9 crime shall be conclusive evidence of the fact that the conviction occurred; but only of that fact,
10 and the board may inquire into the circumstances surrounding the commission of the crime in
11 order to fix the degree of discipline or to determine if the conviction is substantially related to the
12 qualifications, functions, and duties of the licensee in question.

13 As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,'
14 and 'registration.'"

15 12. California Code of Regulations, title 16, section 2521, states:

16 "For the purposes of denial, suspension, or revocation of a license pursuant to
17 Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or
18 act shall be considered to be substantially related to the qualifications, functions or duties of a
19 licensed vocational nurse if to a substantial degree it evidences present or potential unfitness of a
20 licensed vocational nurse to perform the functions authorized by his license in a manner
21 consistent with the public health, safety, or welfare. . . .

22 13. Title 16 California Code of Regulations section 2518.6 provides, in
23 pertinent part:

24 "(a) A licensed vocational nurse shall safeguard patients'/clients' health and safety.

25 . . .

26 "(b) A licensed vocational nurse shall adhere to standards of the profession and
27 shall incorporate ethical and behavioral standards of professional practice which include
28 but are not limited to the following:

- (1) Maintaining current knowledge and skills for safe and competent practice;
- (2) Maintaining patient/client confidentiality;
- (3) Maintaining professional boundaries with the patient/client. . . .

(c) A violation of this section constitutes unprofessional conduct for purposes of initiating disciplinary action."

14. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

ACCUSATION

FIRST CAUSE FOR DISCIPLINE

(Excessive Force, Mistreatment or Abuse of Any Patient)

15. Respondent has subjected his license to discipline for unprofessional conduct pursuant to Code section 2878, subdivision (a)(4), for mistreating or abusing an eighty-one year old stroke patient. The circumstances are as follows:

16. H.A., an eighty-one year old woman, had suffered a stroke in August 2007. While H.A. was at Villa Mesa Care Center (Villa Mesa), respondent administered medications to her, provided other care and gave her "back massages." Respondent gave the patient his contact information upon her discharge from the facility. H.A. wanted to give respondent her late-husband's barbeque set to thank him for his special attention to her. H.A.'s family initially thought that H.A. was imagining the relationship with respondent to be more than it was. But in November 2007, after H.A. had been discharged home to live independently, respondent visited her at home at least three times and admits having sexual intercourse with her twice at her home. H.A.'s daughter saw respondent in her mother's bed wearing only his underwear. When confronted, respondent stated that H.A. was a competent and consulting adult and denied any wrong doing. Respondent also stated that his last relationship was with a woman thirty (30) years older than he.

17. H.A.'s husband had died approximately one year before she stayed at Villa

1 Mesa, and she had inherited assets from him. She showed respondent her financial statements.
2 After one of his visits with H.A., respondent asked her for "train fare" to get home. H.A. gave
3 him \$200.00 in cash. Respondent admitted he had money left over which he said he planned to
4 use for transportation back home after future visits to H.A.

5 18. Respondent suggested to H.A. that a medication called Lyrica that her
6 doctor had prescribed for her was causing her to fall. H.A. stopped taking the medication
7 without consulting her physician.

8 19. On one occasion respondent phoned H.A. at approximately 11:00 p.m.
9 and told her he was coming over. H.A. went outside to wait for him, but she fell down.
10 Respondent did not appear, and H.A. remained on the ground where she had fallen until she was
11 found in the morning.

12 20. H.A. reportedly becomes confused and has memory issues. Either her
13 daughter or a caretaker helps her with shopping and medical appointments. H.A.'s daughter is
14 concerned that respondent may have a habit of taking advantage of elderly female patients.

15 **SECOND CAUSE FOR DISCIPLINE**

16 **(Commission of Act Punishable as Sex-Related Crime)**

17 21. Respondent has subjected his license to discipline for unprofessional
18 conduct pursuant to Code section 2878, subdivision (k), for committing an act punishable as a
19 sex-related crime that is substantially related to the qualifications, functions or duties of a
20 licensed vocational nurse. The circumstances are set forth in paragraphs 16 through 17 above
21 and are incorporated herein by reference as though re-alleged in full.

22 **THIRD CAUSE FOR DISCIPLINE**

23 **(Sexual Relations with a Patient)**

24 22. Respondent has subjected his license to discipline for unprofessional
25 conduct pursuant to Code section 2878, subdivisions (a) and (d), for violating Code section 726
26 (sexual relations with a patient). The circumstances are set forth in paragraphs 16, 17 and 21
27 above and incorporated herein by reference as though re-alleged in full.

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FOURTH CAUSE FOR DISCIPLINE

(April 26, 2007 Felony Convictions: Driving under the Influence and Driving with an Excessive Blood Alcohol Concentration with Three Priors in Ten Years)

23. Grounds exist to revoke respondent's license under Code sections 490, 493, and 2878, subdivision (f), for criminal convictions that are substantially related to his qualifications as a Licensed Vocational Nurse. On April 26, 2007, in the Superior Court of California, County of Orange, North Judicial District, in a case entitled *People v. Napoleon Gonzales aka Lee Gonzales* (Sup. Ct., Orange County, 2006, Case No. 06NF4587), respondent pled guilty to one count of driving under the influence of alcohol in violation of Vehicle Code section 23152, subdivision (a), with three or more prior, separate violations committed within ten (10) years of Vehicle Code section 23103 as specified in Vehicle Code section 23103.5; and to one count of driving with an excessive blood alcohol level in violation of Vehicle Code section 23152, subdivision (b), with three or more prior, separate violations committed within ten (10) years of Vehicle Code section 23103 as specified in Vehicle Code section 23103.5. The circumstances of the convictions are as follows:

24. At approximately 3:00 a.m. on November 16, 2006, two Buena Park Police Department officers were dispatched to 7990 Valley View regarding a possible drunk driver stopped at the gas pumps at the Chevron station. Upon arrival, they observed respondent stumbling from side to side and using his vehicle and the gas pumps as balance. Upon contact, the officers could smell the odor of alcohol emitting from respondent's person. Respondent's speech was slurred and his eyes were bloodshot and watery. Respondent denied drinking anything other than energy drinks. One of the officers asked him to sit down on the gas pump island because he had nearly fallen over several times. When he sat down, respondent told the officers that he loved them.

25. The station's on-duty clerk told the officers he heard a crash and saw respondent sitting in the driver's seat of a white BMW. He said the crash sound was from respondent driving over part of the gas island and running into a display sign. The clerk saw respondent back the vehicle up as a female exited the passenger door and fled the scene. The

1 clerk next saw respondent pull forward, stop next to the gas pump island, and walk away
2 apparently looking for the female. The clerk said respondent then returned and asked the clerk if
3 he knew where his girlfriend was. The clerk gave respondent a cup of coffee to help sober him
4 up so he would not drive away drunk.

5 26. The officers also spoke with an individual at the gas station who had
6 called the police after observing respondent stumbling about, barely able to stand, and unable to
7 work the gas pump. When the officers asked respondent where the keys to the vehicle were, he
8 produced them from his right front pocket. The officers then asked respondent to perform field
9 sobriety tests. Respondent was unable to do so. The officers then impounded respondent's
10 vehicle and took him to the Buena Park Police Department, where he submitted to a blood test.
11 The test result showed respondent's blood alcohol level was at 0.15 percent, nearly twice the
12 legal limit.

13 27. On December 27, 2006, a felony complaint was filed charging respondent
14 with the two felony counts referenced in paragraph 23 above. The complaint further alleged that
15 respondent was driving when he had a blood alcohol concentration (BAC) of 0.15% and that he
16 had had five (5) prior convictions between August 19, 2002, and December 27, 2006.

17 28. On April 26, 2007, respondent pled guilty to all of the charges in the
18 felony complaint filed on December 27, 2006.

19 29. On November 26, 2007, respondent was sentenced to two years in state
20 prison. His sentence was suspended and he was placed on three (3) years probation with
21 specified conditions. The conditions included his serving 180 days in jail, paying fines and
22 penalties, agreeing to submit to random bodily fluid tests, completing the Multiple Offender
23 Alcohol Program, and completing outpatient treatment at Inland Valley Recovery Services for a
24 minimum of 180 days. In addition, respondent's driver's license was suspended for one year.

25 PETITION TO REVOKE PROBATION

26 30. The allegations in paragraphs 1 through 4 above are incorporated herein by
27 reference as though re-alleged in full. On January 18, 2007, and again on April 28, 2008,
28 complainant served respondent with separate notices that he had violated his probation and that

1 the Board would initiate disciplinary proceedings to revoke his probation and reinstate the
2 disciplinary order that was stayed. The notices advised respondent that his probationary period
3 would be automatically extended upon the Board's request to the Attorney General's Office to
4 prepare a petition to revoke probation. Such a request was sent to the Attorney General's Office
5 on April 28, 2008.

6 31. Grounds exist to revoke respondent's probation and impose the order of
7 revocation of Licensed Vocational Nurse License No. VN 219593, in that, as set forth below,
8 respondent has failed to comply with the following terms of probation:

9 **FIRST CAUSE TO REVOKE PROBATION**

10 **(Obey All Laws)**

11 32. At all times after the effective date of respondent's probation, Condition 1
12 stated:

13 "Obey All Laws. Respondent shall obey all federal, state and local laws,
14 including all statutes and regulations governing the license. Respondent shall
15 submit, in writing, a full and detailed account of any and all violations to the
16 Board within five (5) days of occurrence. To ensure compliance with this term,
17 respondent shall submit two (2) completed fingerprint cards and the applicable
18 fingerprint processing fees to the Board within thirty (30) days of the effective
19 date of the decision, unless the Board determines that fingerprint cards were
20 already submitted by respondent as part of his licensure application process
21 effective July 1, 1996. Respondent shall also submit a recent 2" x 2" photograph
22 within thirty (30) days of the effective date of the decision."

23 33. Respondent's probation is subject to revocation because he failed to
24 comply with Probation Condition 1, referenced above. The facts and circumstances regarding
25 this violation are as follows:

26 A. On April 26, 2007, respondent pled guilty to one count of driving
27 under the influence of alcohol in violation of Vehicle Code section 23152, subdivision (a), with
28 three or more prior, separate violations committed within ten (10) years of Vehicle Code section

23103 as specified in Vehicle Code section 23103.5; and to one count of driving with an excessive blood alcohol level in violation of Vehicle Code section 23152, subdivision (b), with three or more prior, separate violations committed within ten (10) years of Vehicle Code section 23103 as specified in Vehicle Code section 23103.5. The circumstances surrounding the conviction, sentencing, and criminal probation are set forth in paragraphs 23 through 29, above and are incorporated herein by reference as though re-alleged in full.

b. Respondent failed to notify the Board in writing within 5 days of his arrest on November 6, 2006.

c. Respondent failed to notify the Board within 5 days of his April 26, 2007 convictions.

d. Respondent pursued a sexual relationship with an 81 year old woman – a former stroke patient -- in violation of the statutes and regulations governing his license. Respondent provided his contact information to the patient upon her discharge, then visited her at her home several times, accepted money from her and admitted to engaging in sexual activity with her. The circumstances are set forth in paragraphs 16 through 17 above and incorporated herein by reference as though re-alleged in full.

e. Respondent violated the statutes and regulations governing his license by discussing with the patient medication prescribed by her physician and advising her to stop taking Lyrica because he believed it was causing her to fall. The circumstances are set forth in paragraph 18 above and incorporated herein by reference as though re-alleged in full.

SECOND CAUSE TO REVOKE PROBATION

(Compliance with Probation Program)

34. At all times after the effective date of respondent's probation, Condition 2 stated:

"Compliance With Probation Program And Quarterly Report Requirements. Respondent shall fully comply with terms and conditions of the probation established by the Board and shall cooperate with the representatives of

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1 the Board in its monitoring and investigation of the Respondent's compliance
2 with the Probation Program.

3 Respondent shall submit quarterly reports, under penalty of
4 perjury, in a form required by the Board. The reports shall certify and document
5 compliance with all the conditions of probation."

6 35. Respondent's probation is subject to revocation because he failed to
7 comply with Probation Condition 2, referenced above. The facts and circumstances regarding
8 this violation are as follows:

9 A. Respondent failed to submit his quarterly probation report for the
10 reporting period April to June 2006.

11 b. Respondent was late in submitting his quarterly probation reports
12 for the reporting periods October through December 2006, July through September 2007,
13 October through December 2007, and January through March 2008.

14 c. Respondent submitted quarterly probation reports for the periods
15 January through March 2007 and April through June 2007 without obtaining his supervisor's
16 signature.

17 d. On October 1, 2007, respondent signed his July through September
18 2007 quarterly probation report under penalty of perjury stating that he was unemployed and
19 looking for "an employer who will accept my probationary license." In fact, he had begun
20 working at Villa Mesa on July 23, 2007.

21 **THIRD CAUSE TO REVOKE PROBATION**

22 **(Notification to Employers)**

23 36. At all times after the effective date of respondent's probation, Condition 5
24 stated:

25 "Notification to Employer(s). When currently employed or
26 applying for employment in any capacity in any health care profession,
27 Respondent shall notify his employer of the probationary status of Respondent's
28 license. This notification to the Respondent's current health care employer shall

1 occur no later than the effective date of the Decision. Respondent shall notify any
2 prospective health care employer of his probationary status with the Board prior to
3 accepting such employment. This notification shall be by providing the employer
4 or prospective employer with a copy of the Board's Disciplinary Decision.

5 The Health Care Profession includes, but is not limited to:
6 Licensed Vocational Nurse, Psychiatric Technician, Registered Nurse, Medical
7 Assistant, Paramedic, Emergency Medical Technician, Certified Nursing
8 Assistant, Home Health Aide, and all other ancillary technical health care
9 positions.

10 Respondent shall cause each health care employer to submit
11 quarterly reports to the Board. The reports shall be on a form provided by the
12 Board, shall include a performance evaluation and such other information as may
13 be required by the Board.

14 Respondent shall notify the Board, in writing, within five (5) days
15 of any change in employment status. Respondent shall notify the Board, in
16 writing, if he is terminated from any nursing or health care related employment
17 with a full explanation of the circumstances surrounding the termination."

18 37. Respondent's probation is subject to revocation because he failed to
19 comply with Probation Condition 5, referenced above. The facts and circumstances regarding
20 this violation are as follows:

21 A. Respondent's employment records from Villa Mesa show that
22 respondent failed to provide that employer with a complete copy of the Disciplinary Decision in
23 Statement of Issues Case No. 6807. In addition, respondent did not provide this employer with a
24 copy of the Statement of Issues that was attached as exhibit A to the Disciplinary Decision.

25 b. Respondent falsified his application to work at Villa Mesa by
26 responding "No" to the question "Have you been convicted of a felony within the last 5 years?"
27 The Statement of Issues would have revealed respondent's felony conviction on August 19,
28 2002.

1 c. Respondent falsified his application to work at Villa Mesa when he
2 failed to indicate on an affidavit regarding convictions that he had pled guilty on April 26, 2007,
3 to two felonies and was awaiting formal sentencing scheduled for November 26, 2007.

4 d. Respondent failed to submit quarterly work performance
5 evaluations for the periods July through September 2007 and October through December 2007.
6 In addition, the form he submitted for the quarterly reporting period April through June 2007 was
7 signed on June 1, 2007, 30 days before the end of the reporting period.

8 **FOURTH CAUSE TO REVOKE PROBATION**

9 **(Supervision Requirements)**

10 38. At all times after the effective date of respondent's probation, Condition 8
11 stated:

12 "Supervision Requirements. Respondent shall obtain prior
13 approval from the Board, before commencing any employment, regarding the
14 level of supervision provided to Respondent while employed as a licensed
15 vocational nurse or psychiatric technician.

16 Respondent shall not function as a charge nurse (i.e., work in any
17 healthcare setting as the person who oversees or directs licensed vocational
18 nurses, psychiatric technicians, certified nursing assistants or unlicensed assistive
19 personnel) or supervising psychiatric technician during the period of probation
20 except as approved, in writing, by the Board."

21 39. Respondent's probation is subject to revocation because he failed to
22 comply with Probation Condition 8, referenced above. The facts and circumstances regarding
23 this violation are as follows:

24 A. Respondent failed to obtain the Board's approval, before
25 commencing employment, regarding the level of supervision to be provided to him while
26 employed as a licensed vocational nurse. Respondent reported employment at Covina
27 Rehabilitation Center beginning on March 6, 2007. On March 27, 2007, he submitted to the
28 Board a job description for a registered nurse/licensed nurse position and indicated that a

1 licensed vocational nurse would be his supervisor; however he failed to submit any information
2 from the facility's administrator or Director of Nursing confirming the level of supervision that
3 would be provided.

4 b. Respondent was hired by Villa Mesa on July 23, 2007. However,
5 he failed to identify the new employer or seek the Board's approval of the position until
6 September 28, 2007.

7 c. On October 23, 2007, respondent began working at Heritage Park
8 Nursing and Rehabilitation Center. However, respondent did not identify the prospective
9 employer or seek the Board's approval of the level of supervision until January 2, 2008.

10 **FIFTH CAUSE TO REVOKE PROBATION**

11 **(Abstain from Controlled Substances)**

12 40. At all times after the effective date of respondent's probation, Condition
13 12 stated:

14 **"Abstain From Controlled Substances.** Respondent shall
15 completely abstain from the personal use or possession of controlled substances,
16 as defined in the California Uniform Controlled Substances Act, and dangerous
17 drugs as defined in Section 4021 and 4022 of the Business and Professions Code,
18 except when lawfully prescribed by a licensed practitioner for a bona fide illness."

19 41. Respondent's probation is subject to revocation because he failed to
20 comply with Probation Condition 12, referenced above. The facts and circumstances regarding
21 this violation are as follows:

22 A. On January 14, 2008, test results from a random screening were
23 positive for barbiturates. Respondent failed to document a valid prescription at the time for any
24 substance that would cause such a result. The information respondent provided to the Board
25 related to a prescription given to him in 2006.

26 b. On his October through December 2006 quarterly report
27 respondent indicated he had discontinued Ativan and all medications because they made him
28 hallucinate, have amnesia and resulted in a relapse of alcohol.

c. On his July through September 2007 and on his October through December 2007 quarterly report forms respondent stated he was no longer taking any prescription medications.

SIXTH CAUSE TO REVOKE PROBATION

(Abstain from Alcohol)

42. At all times after the effective date of respondent's probation, Condition 13 stated:

"Abstain From Use of Alcohol. Respondent shall completely abstain from the use of alcoholic beverages during the period of probation."

43. Respondent's probation is subject to revocation because he failed to comply with Probation Condition 13, referenced above. The facts and circumstances regarding this violation are as follows:

A. On November 6, 2006, respondent was arrested for driving under the influence and driving with an excessive blood alcohol concentration with more than three similar convictions in ten years. On April 26, 2007, respondent was convicted by his plea of guilty to these felonies. The circumstances of the convictions are set forth more fully in paragraphs 23 through 29 above, and incorporated herein by reference as though re-alleged in full.

b. On January 5, 2007, respondent admitted consuming alcohol in a letter he wrote to the Board.

DISCIPLINE CONSIDERATIONS

44. To determine the degree of discipline, if any, to be imposed on respondent, complainant alleges that respondent sustained five convictions within ten years of his April 24, 2007 conviction. The circumstances of the convictions are set forth in the Statement of Issues Case No. 6807 filed against respondent on June 30, 2005, and are incorporated herein by reference as though re-alleged in full. In the stipulated settlement and disciplinary order that respondent entered into on September 13, 2005, respondent admitted that all of the allegations in the Statement of Issues were true. The Board adopted the stipulated settlement on October 28,

2005, and it became effective on November 27, 2005. The stipulated settlement is incorporated herein by reference as though re-alleged in full.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Director of Consumer Affairs issue a decision:

1. Revoking the probation that was granted by the Board of Vocational Nursing and Psychiatric Technicians in Case No. 6807 and imposing the disciplinary order that was stayed thereby revoking Vocational Nurse License No. VN 219593 issued to Napoleon Gonzales aka Napoleon Gonzalez aka Lee Gonzales;

2. Revoking or suspending Vocational Nurse License No. VN 219593, issued to Napoleon Gonzales aka Napoleon Gonzalez aka Lee Gonzales;

3. Ordering Napoleon Gonzales aka Napoleon Gonzalez aka Lee Gonzales to pay the Bureau of Vocational Nursing and Psychiatric Technicians the reasonable costs of the investigation and enforcement of the Accusation portion of this case, pursuant to Business and Professions Code section 125.3; and

4. Taking such other and further action as deemed necessary and proper.

DATED: October 8, 2008



TERESA BELLO-JONES, J.D., M.S.N., R.N.
Executive Officer
Bureau of Vocational Nursing and Psychiatric Technicians
Department of Consumer Affairs
State of California
Complainant

Exhibit A

Decision and Order

Board of Vocational Nursing and Psychiatric Technicians Case No. 6807

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BEFORE THE
BOARD OF VOCATIONAL NURSING
AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation
Against:

Case No. 6807

NAPOLEON GONZALES
1309 E 9TH Apt 15
Upland, CA 91786

OAH No. 2005080574

Respondent.

DECISION

The attached Stipulated Settlement is hereby adopted by the Board of Vocational Nursing and Psychiatric Technicians as the Decision in the above entitled matter.

This Decision shall become effective on November 27, 2005.

IT IS SO ORDERED this 28th day of October, 2005.


Sister Marie de Porres Taylor
President



1 BILL LOCKYER, Attorney General
of the State of California
2 NICHOLAS A. SANCHEZ, State Bar No. 207998
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-2542
5 Facsimile: (213) 897-2804
6 Attorneys for Complainant

7 **BEFORE THE**
8 **BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Statement of Issues Against:

Case No. 6807

11 NAPOLEON GONZALES
a.k.a. NAPOLBON GONZALEZ and
12 a.k.a. LEE GONZALES
35070 Willow Springs Drive
13 Yucaipa, CA 92399

OAH No. 2005080574

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

14 Vocational Nurse License

15 Respondent.

16
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
18 above-entitled proceedings that the following matters are true:

19 **PARTIES**

20 1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) is the Executive
21 Officer of the Board of Vocational Nursing and Psychiatric Technicians (Board). She brought
22 this action solely in her official capacity and is represented in this matter by Bill Lockyer,
23 Attorney General of the State of California, by Nicholas A. Sanchez, Deputy Attorney General.

24 2. Respondent Napoleon Gonzales Napoleon Gonzales (Respondent) is
25 representing himself in this proceeding and has chosen not to exercise his right to be represented
26 by counsel.

27 ///

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1 3. On or about April 11, 2001, Respondent filed an application dated March
2 7, 2001, with the Board of Vocational Nursing and Psychiatric Technicians to obtain a
3 Vocational Nurse License.

4 JURISDICTION

5 4. Statement of Issues No. 6807 was filed before the Board of Vocational
6 Nursing and Psychiatric Technicians (Board), Department of Consumer Affairs, and is currently
7 pending against Respondent. The Statement of Issues and all other statutorily required
8 documents were properly served on Respondent on July 8, 2005. Respondent timely filed his
9 Notice of Defense contesting the Statement of Issues. A copy of Statement of Issues No. 6807 is
10 attached as exhibit A and incorporated herein by reference.

11 ADVISEMENT AND WAIVERS

12 5. Respondent has carefully read, and understands the charges and allegations
13 in Statement of Issues No. 6807. Respondent has also carefully read, and understands the effects
14 of this Stipulated Settlement and Disciplinary Order.

15 6. Respondent is fully aware of his legal rights in this matter, including the
16 right to a hearing on the charges and allegations in the Statement of Issues; the right to be
17 represented by counsel at his own expense; the right to confront and cross-examine the witnesses
18 against him; the right to present evidence and to testify on his own behalf; the right to the
19 issuance of subpoenas to compel the attendance of witnesses and the production of documents;
20 the right to reconsideration and court review of an adverse decision; and all other rights accorded
21 by the California Administrative Procedure Act and other applicable laws.

22 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
23 each and every right set forth above.

24 CULPABILITY

25 8. Respondent admits the truth of each and every charge and allegation in
26 Statement of Issues No. 6807.

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9. Respondent agrees that his Vocational Nurse License is subject to denial and he agrees to be bound by the Board of Vocational Nursing and Psychiatric Technicians (Board) 's imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

10. This stipulation shall be subject to approval by the Board of Vocational Nursing and Psychiatric Technicians. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Vocational Nursing and Psychiatric Technicians may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

11. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

12. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Respondent Napoleon Gonzales will be issued an automatically revoked Vocational Nurse License. The revocation will be stayed and the Respondent placed on three (3) years probation on the following terms and conditions.

1. **Obey All Laws.** Respondent shall obey all federal, state and local laws, including all statutes and regulations governing the license. Respondent shall submit, in writing, a full and detailed account of any and all violations of the law to the Board within five (5) days of occurrence. To ensure compliance with this term, respondent shall submit two (2) completed

1 fingerprint cards and the applicable fingerprint processing fees to the Board within thirty (30)
2 days of the effective date of the decision, unless the Board determines that fingerprint cards were
3 already submitted by Respondent as part of his licensure application process effective July 1,
4 1996. Respondent shall also submit a recent 2" x 2" photograph within thirty (30) days of the
5 effective date of the decision.

6 2. **Compliance With Probation Program And Quarterly Report**
7 **Requirements.** Respondent shall fully comply with terms and conditions of the probation
8 established by the Board and shall cooperate with the representatives of the Board in its
9 monitoring and investigation of the Respondent's compliance with the Probation Program.

10 Respondent shall submit quarterly reports, under penalty of perjury, in a form
11 required by the Board. The reports shall certify and document compliance with all the conditions
12 of probation.

13 3. **Notification of Address And Telephone Number Change(s).**
14 Respondent shall notify the Board, in writing, within five (5) days of a change of residence or
15 mailing address, of his new address and any change in his work and/or home telephone numbers.

16 4. **Notification of Residency or Practice Outside of State.** Respondent
17 shall notify the Board, in writing, within five (5) days, if he leaves California to reside or practice
18 in another state.

19 Respondent shall notify the Board, in writing, within five (5) days, upon his return
20 to California.

21 The period of probation shall not run during the time Respondent is residing or
22 practicing outside California.

23 5. **Notification to Employer(s).** When currently employed or applying for
24 employment in any capacity in any health care profession, Respondent shall notify his employer
25 of the probationary status of Respondent's license. This notification to the Respondent's current
26 health care employer shall occur no later than the effective date of the Decision. Respondent
27 shall notify any prospective health care employer of his probationary status with the Board prior
28 to accepting such employment. This notification shall be by providing the employer or

1 prospective employer with a copy of the Board's Disciplinary Decision.

2 The Health Care Profession includes, but is not limited to: Licensed Vocational
3 Nurse, Psychiatric Technician, Registered Nurse, Medical Assistant, Paramedic, Emergency
4 Medical Technician, Certified Nursing Assistant, Home Health Aide, and all other ancillary
5 technical health care positions.

6 Respondent shall cause each health care employer to submit quarterly reports to
7 the Board. The reports shall be on a form provided by the Board, shall include a performance
8 evaluation and such other information as may be required by the Board.

9 Respondent shall notify the Board, in writing, within five (5) days of any change
10 in employment status. Respondent shall notify the Board, in writing, if he is terminated from any
11 nursing or health care related employment with a full explanation of the circumstances
12 surrounding the termination.

13 **6. Interviews/meetings With Board Representative(s).** Respondent,
14 during the period of probation, shall appear in person at interviews/meetings as directed by the
15 Board, or its designated representatives.

16 **7. Employment Requirements And Limitations.** During probation,
17 Respondent shall work in his licensed capacity in the State of California. This practice shall
18 consist of no less than six (6) continuous months and of no less than twenty (20) hours per week.

19 While on probation, Respondent shall not work for a nurses' registry or in any
20 private duty position, a temporary nurse placement agency, as a faculty member in an accredited
21 or approved school of nursing, or as an instructor in a Board approved continuing education
22 course except as approved, in writing, by the Board. Respondent shall work only on a regularly
23 assigned, identified and predetermined work site(s) and shall not work in a float capacity except
24 as approved, in writing, by the Board.

25 **8. Supervision Requirements.** Respondent shall obtain prior approval from
26 the Board, before commencing any employment, regarding the level of supervision provided to
27 Respondent while employed as a licensed vocational nurse or psychiatric technician.

28 ///

Respondent shall not function as a charge nurse (i.e., work in any healthcare setting as the person who oversees or directs licensed vocational nurses, psychiatric technicians, certified nursing assistants or unlicensed assistive personnel) or supervising psychiatric technician during the period of probation except as approved, in writing, by the Board.

9. **Maintenance of Valid License.** Respondent shall, at all times while on probation, maintain an active current license with the Board, including any period during which suspension or probation is tolled.

Should Respondent's license, by operation of law or otherwise, expire, upon renewal or reinstatement respondent's license shall be subject to any and all terms of this probation not previously satisfied.

10. **Violation of Probation.** If Respondent violates the conditions of his probation, the Board after giving Respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline (revocation) of the Respondent's license. If during the period of probation, an accusation or petition to revoke has been filed against the Respondent's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against the Respondent's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the Board. Upon successful completion of probation, the Respondent's license will be fully restored.

11. **Chemical Dependency Support/Recovery Groups.** Within five (5) days of the effective date of the Decision, Respondent shall begin attendance at a chemical dependency support group (e.g. Alcoholics Anonymous, Narcotics Anonymous, Nurse Support Group). Verified documentation of attendance shall be submitted by Respondent with each quarterly report. Respondent shall continue attendance in such a group for the duration of probation.

12. **Abstain From Controlled Substances.** Respondent shall completely abstain from the personal use or possession of controlled substances, as defined in the California Uniform Controlled Substances Act, and dangerous drugs as defined in Section 4021 and 4022 of

1 the Business and Professions Code, except when lawfully prescribed by a licensed practitioner
2 for a bona fide illness.

3 13. **Abstain From Use of Alcohol.** Respondent shall completely abstain from
4 the use of alcoholic beverages during the period of probation.

5 14. **Submit Biological Fluid Samples.** Respondent shall immediately submit
6 to biological fluid testing, at Respondent's cost, upon request by the Board or its designee. There
7 will be no confidentiality in test results; positive test results will be immediately reported to the
8 Board and the Respondent's current employer.


9 15. **Take And Pass Licensure Examination.** Respondent shall take and pass
10 the licensure exam currently required of new applicants as a condition prior to the issuance of a
11 license. Respondent shall pay the established examination fees.

12 All standard terms or any other terms of probation shall be tolled until Respondent
13 has successfully passed the licensure examination and notice of licensure has been mailed to
14 Respondent by the Board. The Respondent's failure to pass the licensure examination within
15 two (2) years shall be considered a violation of his probationary status.

16 ACCEPTANCE

17 I have carefully read the Stipulated Settlement and Disciplinary Order. I
18 understand the stipulation and the effect it will have on my Vocational Nurse License. I enter
19 into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently,
20 and agree to be bound by the Decision and Order of the Board of Vocational Nursing and
21 Psychiatric Technicians.

22 DATED: 9/13/05

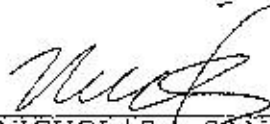
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25 NAPOLEON GONZALES
26 Respondent
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28

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Vocational Nursing and Psychiatric Technicians of the Department of Consumer Affairs.

DATED: 9/13/2005

BILL LOCKYER, Attorney General
of the State of California



NICHOLAS A. SANCHEZ
Deputy Attorney General

Attorneys for Complainant

DOJ Matter ID: LA2004602174
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Exhibit A
Statement of Issues No. 6807

1 BILL LOCKYER, Attorney General
of the State of California
2 NICHOLAS A. SANCHEZ, State Bar No. 207998
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-2542
5 Facsimile: (213) 897-2804
6 Attorneys for Complainant

7
8 **BEFORE THE**
9 **BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Statement of Issues Against:

Case No. 6807

12 NAPOLEON GONZALES
a.k.a. NAPOLEON GONZALEZ and
13 a.k.a. LEE GONZALES
35070 Willow Springs Drive
14 Yucaipa, CA 92399

STATEMENT OF ISSUES

15 Vocational Nurse License

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Teresa Bello-Jones, J.D., M.S.N., R.N., Executive Officer (Complainant)
21 brings this Statement of Issues solely in her official capacity as the Executive Officer of the
22 Board of Vocational Nursing and Psychiatric Technicians, Department of Consumer Affairs
23 (Board).
24 2. On or about April 11, 2001, the Board received an Application for
25 Vocational Nurse License from Napoleon Gonzales, a.k.a. Napoleon Gonzalez and a.k.a. Lee
26 Gonzales, (Respondent). On or about March 7, 2001, Napoleon Gonzales certified under penalty
27 of perjury to the truthfulness of all statements, answers, and representations in the application.
28 The Board denied the application on August 4, 2004.

JURISDICTION

3. This Statement of Issues is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2866 provides, in pertinent part, that the Board may deny a license when it finds that the applicant has committed any acts constituting grounds for denial of licensure under section 480.

5. Section 480 provides, in pertinent part, that the Board may deny licensure if the applicant has been convicted of a crime substantially related to the qualifications, functions or duties of a licensed vocational nurse; has committed any act involving dishonesty, fraud or deceit; has committed any act which, if done by a licensee, would be grounds for discipline; or has knowingly made a false statement of fact required to be revealed on the application for licensure.

6. California Code of Regulations, title 16, section 2521, states, in pertinent part, for the purposes of denial, suspension, or revocation of a license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a licensed vocational nurse if to a substantial degree it evidences present or potential unfitness of a licensed vocational nurse to perform the functions authorized by his license in a manner consistent with the public health, safety, or welfare.

FIRST CAUSE FOR DENIAL OF APPLICATION

(Convictions of Substantially Related Crimes)

7. Respondent's application is subject to denial under sections 2866 and 480 of the Code, as defined by Title 16, California Code of Regulations, sections 2521, in that Respondent was convicted of crimes substantially related to the qualifications, functions or duties of a licensed vocational nurse, as follows:

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1 a. On or about August 19, 2002, in a criminal proceeding entitled *The People*
2 *of the State of California v. Napoleon Gonzalez* in Riverside County Superior Court, Case
3 No. BAF002131, Respondent was convicted by plea of guilty for violating Vehicle Code
4 section 23152(a) (driving while under the influence of alcohol), a felony. The circumstances of
5 the conviction are that on or about August 13, 2002, the Respondent was arrested by the police
6 for driving under the influence of alcohol in violation of Vehicle Code section 23152(a).

7 b. On or about November 13, 2001, in a criminal proceeding entitled *The*
8 *People of the State of California v. Napoleon Gonzalez* in San Bernardino County Superior
9 Court, Case No. TSB106767, Respondent was convicted by plea of guilty for violating Vehicle
10 Code section 23152(b) (driving with a blood alcohol level greater than 0.08%), a misdemeanor.
11 The circumstances of the conviction are that on or about June 12, 2001, the Respondent was
12 arrested by the police for driving with a blood alcohol level greater than 0.08% in violation of
13 Vehicle Code section 23152(b).

14 c. On or about November 13, 2001, in a criminal proceeding entitled *The*
15 *People of the State of California v. Napoleon Gonzalez* in San Bernardino County Superior
16 Court, Case No. TSB106719, Respondent was convicted by plea of guilty for violating Vehicle
17 Code section 23152(b) (driving with a blood alcohol level greater than 0.08%), a misdemeanor.
18 The circumstances of the conviction are that on or about May 18, 2001, the Respondent was
19 arrested by the police for driving with a blood alcohol level greater than 0.08% in violation of
20 Vehicle Code section 23152(b).

21 d. On or about August 27, 2001, in a criminal proceeding entitled *The People*
22 *of the State of California v. Napoleon Gonzalez* in Riverside County Superior Court, Case No.
23 BAM012556, Respondent was convicted by plea of guilty for violating Vehicle Code
24 section 23152(a) (driving while under the influence of alcohol), a misdemeanor. The
25 circumstances of the conviction are that on or about January 16, 2001, the Respondent was
26 arrested by the police for driving under the influence of alcohol in violation of Vehicle Code
27 section 23152(a).

28 e. On or about December 2, 1997, in a criminal proceeding entitled *The*

1 *People of the State of California v. Napoleon Gonzalez* in Riverside County Superior Court, Case
2 No. RIM360645, Respondent was convicted by plea of guilty for violating Vehicle Code
3 section 23152(b) (driving with a blood alcohol level greater than 0.08%), a misdemeanor. The
4 circumstances of the conviction are that on or about October 4, 1997, the Respondent was
5 arrested by the police for driving with a blood alcohol level greater than 0.08% in violation of
6 Vehicle Code section 23152(b).

7 f. On or about November 5, 1997, in a criminal proceeding entitled *The*
8 *People of the State of California v. Napoleon Gonzalez* in Los Angeles County Superior Court,
9 Santa Clarita Courthouse Judicial District, Case No. 7NE03405, Respondent was convicted by
10 plea of nolo contendere for violating Penal Code section 415(1) (challenge to fight in public), a
11 misdemeanor. The circumstances of the conviction are that on or about September 21, 1997, the
12 Respondent was arrested by the police for fighting in a public place and challenging another
13 person in a public place to fight in violation of Penal Code section 415(1).

14 SECOND CAUSE FOR DENIAL OF APPLICATION

15 (Conduct Warranting Denial of License)

16 8. Respondent's application is subject to denial under sections 2866 and 480
17 of the Code as set forth in paragraph 7 above, in that Respondent committed acts which if done
18 by a licensed vocational nurse would be grounds for suspension or revocation of licensure.

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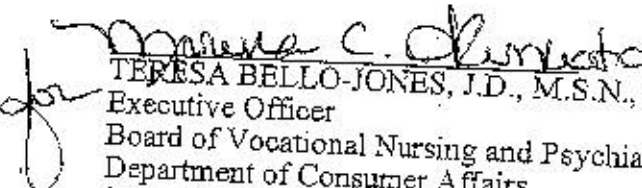
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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians issue a decision:

1. Denying Napoleon Gonzales', a.k.a. Napoleon Gonzalez and Lee Gonzales, application for a Vocational Nurse License;
2. Taking such other and further action as deemed necessary and proper.

DATED: June 30, 2005


TERESA BELLO-JONES, J.D., M.S.N., R.N.,
Executive Officer
Board of Vocational Nursing and Psychiatric Technicians
Department of Consumer Affairs
State of California

Complainant

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